

time, plus one-twelfth of one-half percent per annum, if the mortgage was executed on or after May 1, 1997. If the mortgage was executed before May 1, 1997, the principal limit increases each month at a rate equal to one-twelfth of the expected average mortgage interest rate plus one-twelfth of one-half percent per annum. The principal limit may decrease because of insurance or condemnation proceeds applied to the mortgage balance under § 209.209(b) of this chapter.

One-month Constant Maturity Treasury (CMT) Index means the average weekly yield of U.S. Treasury securities adjusted to a constant maturity of one month.

Principal residence means the dwelling where the mortgagor maintains his or her permanent place of abode, and typically spends the majority of the calendar year. A person may have only one principal residence at any one time.

Secretary. (See 24 CFR 5.100).

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989, as amended at 59 FR 50464, Oct. 3, 1994; 60 FR 42759, Aug. 16, 1995; 61 FR 36266, July 9, 1996; 61 FR 49032, Sept. 17, 1996; 62 FR 12953, Mar. 19, 1997; 62 FR 30227, June 2, 1997; 64 FR 2987, Jan. 19, 1999; 72 FR 40050, July 20, 2007; 73 FR 1436, Jan. 8, 2008; 74 FR 45316, Sept. 2, 2009]

§ 206.7 Effect of amendments.

The regulations in this part may be amended by the Secretary at any time and from time to time, in whole or in part, but amendments to subparts B and C of this part will not adversely affect the interests of a mortgagee on any mortgage to be insured for which either the Direct Endorsement mortgagee or Lender Insurance mortgagee has approved the mortgagor and all terms and conditions of the mortgage, or the Secretary has made a commitment to insure. Such amendments will not adversely affect the interests of a mortgagor in the case of a default by a mortgagee where the Secretary makes payments to the mortgagor.

[62 FR 30227, June 2, 1997]

§ 206.8 Preemption.

(a) *Lien priority.* The full amount secured by the mortgage shall have the same priority over any other liens on

the property as if the full amount had been disbursed on the date the initial disbursement was made, regardless of the actual date of any disbursement. The amount secured by the mortgage shall include all direct payments by the mortgagee to the mortgagor and all other loan advances permitted by the mortgage for any purpose including loan advances for interest, taxes and special assessments, premiums for hazard or mortgage insurance, servicing charges and costs of collection, regardless of when the payments or loan advances were made. The priority provided by this section shall apply notwithstanding any State constitution, law or regulation.

(b) *Second mortgage.* If the Secretary holds a second mortgage, it shall have a priority subordinate only to the first mortgage (and any senior liens permitted by paragraph (a) of this section).

[61 FR 49033, Sept. 17, 1996]

Subpart B—Eligibility; Endorsement

§ 206.9 Eligible mortgagees.

(a) *Statutory requirements.* (See section 255(b)(3) of NHA).

(b) *HUD approved mortgagees.* Any mortgagee authorized under paragraph (a) of this section and approved under part 202 of this chapter, except an investing mortgagee approved under § 202.9 of this chapter, is eligible to apply for insurance. A mortgagee approved under §§ 202.6, 202.7, 202.9 or 202.10 of this chapter may purchase, hold and sell mortgages insured under this part without additional approval.

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989, as amended at 57 FR 58350, Dec. 9, 1992; 60 FR 42759, Aug. 16, 1995; 61 FR 36266, July 9, 1996; 61 FR 49033, Sept. 17, 1996; 62 FR 20088, Apr. 24, 1997]

§ 206.13 [Reserved]

§ 206.15 Insurance.

Mortgages originated under this part must be endorsed through the Direct Endorsement program under § 203.5 of this chapter, or insured through the Lender Insurance program under § 203.6 of this chapter, except as provided in §§ 203.1 or 203.4 of this chapter. The

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mortgagee must submit the information as described in § 203.255 (b) or (f) of this chapter, as applicable; the certificate of housing counselling as described in § 206.41; a copy of the title insurance commitment satisfactory to the Secretary (or other acceptable title evidence if the Secretary has determined not to require title insurance under § 206.45(a)); the mortgagee's election of either the assignment or shared premium option under § 206.17; and any other documentation required by the Secretary. Section 203.255 (c), (d), (e), and (f) of this chapter, pertaining to the processes for Direct Endorsement and Lender Insurance, apply to mortgages under this part. If the mortgagee has complied with the requirements of §§ 203.3, 203.4, 203.5, 203.6, and 203.255 of this chapter (as applicable), and the requirements of this part, and the mortgage is determined to be eligible, the Secretary will either endorse the mortgage for insurance by issuing a Mortgage Insurance Certificate or will electronically acknowledge that the mortgage has been insured. The mortgagee under the Lender Insurance program shall execute for the Secretary the loan agreement included in the term "mortgage" as defined in § 206.3.

[62 FR 30227, June 2, 1997]

ELIGIBLE MORTGAGES

§ 206.17 General.

(a) *Payment options.* A mortgage shall initially provide for the tenure payment option (§ 206.19(a)), the term payment option (§ 206.19(b)), or the line of credit payment option (§ 206.19(c)), or a combination as provided in § 206.25(d), subject to later change in accordance with § 206.26.

(b) *Interest rate.* A mortgage shall provide for either fixed or adjustable interest rates in accordance with § 206.21.

(c) *Shared appreciation.* A mortgage may provide for shared appreciation in accordance with § 206.23.

[54 FR 24833, June 9, 1989, as amended at 61 FR 36266, July 9, 1996]

§ 206.19 Payment options.

(a) *Term payment option.* Under the term payment option, equal monthly

payments are made by the mortgagee to the mortgagor for a fixed term of months chosen by the mortgagor, unless the mortgage is prepaid in full or becomes due and payable earlier under § 206.27(c).

(b) *Tenure payment option.* Under the tenure payment option, equal monthly payments are made by the mortgagee to the mortgagor as long as the property is the principal residence of the mortgagor, unless the mortgage is prepaid in full or becomes due and payable under § 206.27(c).

(c) *Line of credit payment option.* Under the line of credit payment option, payments are made by the mortgagee to the mortgagor at times and in amounts determined by the mortgagor as long as the amounts do not exceed the payment amounts permitted by § 206.25(d).

(d) *Principal limit set asides.* (1) Under the term or tenure options, the mortgagee shall, if requested by the mortgagor, set aside a portion of the principal limit to be drawn down as a line of credit.

(2) When repairs required by § 206.47 will be completed after closing, the mortgagee shall set aside a portion of the principal limit equal to 150% of the Secretary's estimated cost of repairs, plus the repair administration fee.

(3) When required by § 206.205(f), the mortgagee shall set aside a portion of the principal limit for payment of property charges consisting of taxes, ground rents, flood and hazard insurance premiums and assessments.

(4) When servicing charges will be made as permitted by § 206.207(b), the mortgagee shall set aside a portion of the principal limit sufficient to cover charges through a period equal to the payment term which would be used to calculate tenure payments under § 206.25(c).

(e) *Interest accrual and repayment.* The interest charged on the mortgage balance shall be added to the mortgage balance monthly as provided in the mortgage. Under all payment options, repayment of the mortgage balance including monthly MIP and interest is deferred until the mortgage becomes due and payable in full under § 206.27(c).

(f) *Payments limited by lien amount.* No payments shall be made under any of